

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Anthony B. Burnside, #259648,)	
)	C.A. No. 6:06-2207-HMH-WMC
Plaintiff,)	
)	OPINION & ORDER
vs.)	
)	
E. Gore, Major,)	
)	
Defendant.)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 of the District of South Carolina.¹ Anthony B. Burnside (“Burnside”), a state prisoner proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983. Magistrate Judge Catoe recommends dismissing Burnside’s complaint without prejudice and without issuance and service of process. Burnside filed objections to the Report and Recommendation. For the reasons below, the court adopts the Magistrate Judge’s Report and Recommendation and dismisses Burnside’s complaint.

I. FACTUAL AND PROCEDURAL BACKGROUND

Burnside is currently incarcerated at Broad River Correctional Institute in Columbia, South Carolina. On August 3, 2006, Burnside filed a complaint pursuant to 42 U.S.C. § 1983

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (West Supp. 2006).

alleging various civil rights violations. Although unclear from the complaint, Burnside appears to complain about being terminated from his prison job and the lack of response he received from E. Gore regarding his termination. (Compl. 4-6.) On September 8, 2006, Magistrate Judge Catoe issued his Report recommending dismissal of Burnside's complaint without issuance and service of process. The Magistrate Judge noted that Burnside's suit is barred by the "three strikes" rule of 28 U.S.C. § 1915(g) because he has filed more than three frivolous suits since 1999 and his complaint fails to satisfy the exception for "imminent danger of serious physical injury." 28 U.S.C. § 1915(g) (West Supp. 2006).

II. DISCUSSION OF THE LAW

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Burnside filed objections to the Report and Recommendation. After review, however, the court finds that many of Burnside's objections are non-specific, unrelated to the dispositive portions of the Magistrate Judge's Report and Recommendation, and merely restate his claims. However, the court was able to glean one specific objection.

Burnside argues that "the facts alleged in his case place [Burnside] squarely within a proper interpretation of the" imminent danger exception. (Objections 3.) Nowhere in his complaint or objections does Burnside allege any conduct or circumstances that would give rise to the inference that he is in "imminent danger of serious physical injury." 28 U.S.C. §

1915(g). As such, this objection is without merit. Therefore, after a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation.

Therefore, it is

ORDERED that Burnside's complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
September 27, 2006

NOTICE OF RIGHT TO APPEAL

The plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.